

Testimony
Attorney General John Ashcroft
House Committee on the Judiciary
September 24, 2001

Mr. Chairman, thank you for the opportunity to appear before this committee to discuss the nation's response to the criminal act of war perpetrated on the United States of America on September 11.

Thank you, Chairman Sensenbrenner and Ranking Member Conyers, for your expeditious consideration of changes in the law to give law enforcement the tools we need to fight terrorism. I know that you and other members of the committee worked through the weekend to prepare for this hearing. For that, as well as the cooperation you've demonstrated throughout this time of national need, I am very grateful.

In his address to Congress and the nation last Thursday, President Bush declared war on terrorism and announced the United States will direct every resource at our command to victory in this war. As Attorney General, it is my duty to respond to this call to action by ensuring the capacity of United States law enforcement to perform two related critical tasks: First, prevent more terrorism, and second, to bring terrorists to justice.

Mr. Chairman and members of the committee, the American people do not have the luxury of unlimited time in erecting the necessary defenses to future terrorist acts. The danger that darkened the United States of America and the civilized world on September 11 did not pass with the atrocities committed that day. It requires that we provide law enforcement with the tools necessary to identify, dismantle, disrupt and punish terrorist organizations, before they strike again. Terrorism is a clear and present danger to Americans today.

At our request, the Federal Aviation Administration has grounded such aircraft until midnight tonight. In addition to its own preventative measures, the FBI has strongly recommended that state, local and other federal law enforcement organizations take steps to identify crop dusting aircraft in their jurisdictions and ensure that they are secured.

I also urge Americans to notify immediately the FBI of any suspicious circumstances that may come to your attention regarding crop dusting aircraft or any other possible terrorist threat. The FBI website is www.ifccfbi.org. Our toll-free telephone number is 866-483-5137.

The highly coordinated attacks of September 11 make it clear that terrorism is the activity of expertly organized, highly coordinated and well financed organizations and networks. These organizations operate across borders to advance their ideological agendas. They benefit from the shelter and the protection of like-minded regimes. They are undeterred by the threat of criminal

sanctions. And they are willing to sacrifice the lives of their members in order to take the lives of innocent citizens of free nations.

This new terrorist threat to Americans on our soil is a turning point in America's history. It is a new challenge for law enforcement. Our fight against terrorism is not merely or primarily a criminal justice endeavor -- it is defense of our nation and its citizens. We cannot wait for terrorists to strike to begin investigations and make arrests. The death tolls are too high, the consequences too great. We must prevent first, prosecute second.

The fight against terrorism is now the highest priority of the Department of Justice. As we do in each and every law enforcement mission we undertake, we are conducting this effort with a total commitment to protect the rights and privacy of all Americans and the Constitutional protections we hold dear.

In the past, when American law enforcement confronted challenges to our safety and security from espionage, drug trafficking and organized crime, we met those challenges in ways that preserved our fundamental freedoms and civil liberties.

Today we seek to meet the challenge of terrorism within our borders and targeted at our friends and neighbors with the same careful regard for the Constitutional rights of Americans and respect for all human beings. Just as American rights and freedoms have been preserved throughout previous law enforcement campaigns, they must be preserved throughout this war on terrorism.

Americans were attacked September 11 by an enemy who does not seek territory, nor resources, nor material gain. As Americans, we were attacked for our beliefs. Our beliefs in freedom, in equality before the law, and in the right of all men and all women to reach the maximum of the potential that God has placed within them. We were attacked because we have a deep abiding commitment to fairness, respect for privacy, and dedication to individual freedoms. We were attacked for our nation's values. We will not now allow our values to become victims.

This Justice Department will never waiver in our defense of the Constitution nor relent our defense of civil rights. The American spirit that rose from the rubble in New York knows no prejudice and defies division by race, ethnicity or religion. The spirit which binds us and the values that define us will light America's path from this darkness.

At the Department of Justice, we are charged with defending Americans' lives and liberties. We are asked to wage war against terrorism within our own borders. Today, we seek to enlist your assistance, for we seek new laws against America's enemies, foreign and domestic.

As the members of this Committee understand, the deficiencies of our current laws on terrorism reflect two facts: First, our laws fail to make defeating terrorism a national priority. Indeed, we have tougher laws against organized crime and drug trafficking than terrorism. Second, technology has

dramatically outpaced our statutes. Law enforcement tools created decades ago were crafted for rotary telephones – not email, the internet, mobile communications and voice mail.

Every day that passes with outdated statutes and the old rules of engagement is a day that terrorists have a competitive advantage. Until Congress makes these changes, we are fighting an unnecessarily uphill battle. Members of the Committee, I regret to inform you that we are today sending our troops into the modern field of battle with antique weapons. It is not a prescription for victory.

The anti-terrorism proposals that have been submitted by the Administration represent careful, balanced, and long overdue improvements to our capacity to combat terrorism. It is not a wish list: It is a modest set of essentials, focusing on five broad objectives, which I will briefly summarize.

First, law enforcement needs a strengthened and streamlined ability for our intelligence gathering agencies to gather the information necessary to disrupt, weaken and eliminate the infrastructure of terrorist organizations. Critically, we also need the authority for law enforcement to share vital information with our national security agencies in order to prevent future terrorist attacks.

Terrorist organizations have increasingly used technology to facilitate their criminal acts and hide their communications from law enforcement. Intelligence gathering laws that were written for the era of land-line telephone communications are ill-adapted for use in communications over multiple cell phones and computer networks -- communications that are also carried by multiple telecommunications providers located in different jurisdictions.

Terrorists are trained to change cell phones frequently and to route email through different internet computers in order to defeat surveillance. Our proposal creates a more efficient, technology-neutral standard for intelligence gathering, ensuring law enforcement's ability to trace the communications of terrorists over cell-phones, computer networks and new technologies that may be developed in the coming years.

These changes would streamline intelligence gathering procedures only. We do not seek changes in the underlying protections in the law for the privacy of law-abiding citizens. The information captured by the proposed technology-neutral standard would be limited to the kind of information you might find in a phone bill, such as the phone numbers dialed by a particular telephone. The content of these communications would remain off-limits to monitoring by intelligence authorities, except for under current legal standards.

Our proposal would allow a federal court to issue a single order that would apply to all providers in a communications chain, including those outside the region where the court is located. We need speed in identifying and tracking down terrorists. Time is of the essence. The ability of law enforcement to trace communications into different jurisdictions without obtaining an additional court order can be the difference between life and death for American citizens.

We are not asking the law to expand, just to grow as technology grows. This information has historically been available when criminals used pre-digital technologies.

Second, we must make fighting terrorism a national priority in our criminal justice system.

In his speech to Congress, President Bush said that Osama bin Laden's terrorist group, Al Qaeda, is to terror what the mafia is to organized crime. However, our current laws make it easier to prosecute members of organized crime than to crack down on terrorists who can kill thousands of Americans in a single day. The same is true of drug traffickers and individuals involved in espionage – our laws treat these criminals and those who aid and abet them more severely than terrorists.

The statute of limitations on prosecuting the types of crimes that are likely to be committed by terrorists, for example, is five to eight years. The crimes of murder and espionage, in contrast, have no statute of limitations. We would eliminate the statute of limitations on terrorist acts.

We would make harboring a terrorist a crime. Currently, for instance, harboring persons engaged in espionage is a criminal offense, but harboring terrorists is not. Given the wide terrorist networks suspected of participating in the September 11 attacks – both in the United States and in other countries – we must punish anyone who harbors a terrorist. Terrorists can run, but they should have no place to hide. Our proposal also increases the penalties for conspiracy to commit terrorist acts to a serious level as we have done for many drug crimes.

Third, we seek to enhance the authority of the Immigration and Naturalization Service to detain or remove suspected alien terrorists from within our borders.

The ability of terrorists to move freely across borders and operate within the United States is critical to their capacity to inflict damage on the citizens and facilities in the United States. Under current law, the existing grounds for removal of aliens for terrorism are limited to direct material support of an individual terrorist. We propose to expand these grounds for removal to include material support to terrorist organizations.

We propose that any alien who provides material support to an organization that he or she knows or should know is a terrorist organization should be subject to removal from the United States.

Fourth, law enforcement must be able to "follow the money" in order to identify and neutralize terrorist networks. Sophisticated terrorist operations require substantial financial resources. On Sunday evening, President Bush signed a new Executive Order under the International Emergency Economic Powers Act (IEEPA) blocking the assets of, and transactions with, terrorist organizations and other business organizations that support terrorism. President Bush's new executive order will allow the intelligence, law-enforcement and financial regulatory agencies to follow the money trail to the terrorists and to freeze the money to disrupt their actions. This executive order means that United States banks that have assets of these groups or individuals must freeze their accounts. And United States citizens or businesses are prohibited from doing business with them.

At present, the President's powers are limited to freezing assets and blocking transactions with terrorist organizations. We need the capacity for more than a freeze. We must be able to seize. Doing business with a terrorist organization must be a losing proposition. Terrorist financiers must pay a price for their support of terrorism, which kills innocent Americans.

Consistent with the President's action yesterday and his statement this morning, our proposal gives law enforcement the ability to seize their terrorist assets. Further, criminal liability is imposed on those who knowingly engage in financial transactions – money laundering – involving the proceeds of terrorist acts.

Finally, we seek the ability for the President and the Department of Justice to provide swift emergency relief to the victims of terrorism and their families.

Mr. Chairman, I want you to know that the investigation into the acts of September 11 is ongoing and moving aggressively forward. To date, the FBI and INS have arrested or detained 352 individuals. We are interested in talking to 392 individuals who remain at large because we think they may have information helpful to the investigation. The investigative process has yielded 324 searches, 103 court orders, and 3410 subpoenas. And the potential tips are still coming in to the website and the 1-800 hotline. The website has received 78,125 potential tips and the hotline has received 14,299 phone calls. I have said before and I cannot emphasize enough, this is the largest investigation ever undertaken by the Justice Department and its component agencies.

Ladies and gentlemen of the Judiciary Committee, the attacks of September 11 drew a bright line of demarcation between the civil and the savage, and our nation will never be the same. On one side of this line are freedom's enemies, murderers of innocents in the name of a barbarous cause. On the other side are friends of freedom; citizens of every race and ethnicity, bound together in quiet resolve to defend our way of life.

Among the high honors of my life has been the opportunity I have had over the past days and weeks to be in the company of these heroes, these friends of freedom; to meet with and work side-by-side with men and women who have exerted themselves beyond fatigue, who have set aside their own personal agendas and their personal safety to answer our nation's call. The nation has found new leaders – and new role models – in these brave Americans.

Now it falls to us, in the name of freedom and those who cherish it, to ensure our nation's capacity to defend ourselves from terrorists. Today I call upon Congress to act to strengthen our ability to fight this evil wherever it exists, and to ensure that the line between the civil and the savage, so brightly drawn on September 11, is never crossed again.